

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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MICHELLE CHIN,

Plaintiff,

v.

6:18-CV-01340

ALEJANDRO TORRES, et al.,

Defendants.

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THOMAS J. McAVOY,  
Senior United States District Judge

**DECISION & ORDER**

**I. INTRODUCTION**

This *pro se* action brought pursuant to Title VII of the Civil Rights Act of 1962, as amended, 42 U.S.C. §2000e, *et seq.*, was referred to the Hon. Thérèse Wiley Dancks, United States Magistrate Judge, to review Plaintiff's *in forma pauperis* application and for an initial review pursuant to 28 U.S.C. § 1915(e). Magistrate Judge Dancks recommends that Plaintiff's claims against the individually-named Defendants be dismissed with prejudice because such claims are not actionable in this Circuit, and that Plaintiff be granted leave to file an amended complaint to name her employer as a defendant. See Ord. & Rep.-Rec., Dkt. No. 4. Plaintiff has not filed timely objections, but rather requests additional time in which to file an amended complaint. See Dkt. No. 5.

**II. DISCUSSION**

After examining the record, this Court has determined that the recommendations in

the Order and Report-Recommendation are not subject to attack for plain error or manifest injustice. Further, Plaintiff's request for additional time to file an amended complaint is reasonable given her *pro se* status.

### **III. CONCLUSION**

Accordingly, the Court **ACCEPTS and ADOPTS** the recommendations in the Order and Report-Recommendation [Dkt. No. 4] for the reasons stated therein, and **GRANTS** Plaintiff's request for additional time to file an amended complaint [Dkt. No. 5]. Therefore, it is hereby

**ORDERED** that plaintiff is given sixty (60) days from the date of this Decision and Order in which to submit an amended complaint naming her employer at the Hampton Inn as a defendant. Plaintiff is advised that an amended complaint supersedes in all respects the prior pleading. Therefore, if plaintiff files an amended complaint, she must properly allege in the amended complaint all factual bases for all claims asserted therein, and the amended complaint must be in compliance with Rules 8 and 10 of the Federal Rules of Civil Procedure. And, it is further

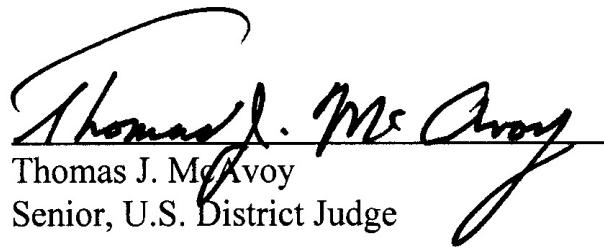
**ORDERED** that at the expiration of the sixty (60) days granted Plaintiff to file an amended complaint, the action is **DISMISSED with prejudice** against Defendants Torres, Wells, Kabir, Colburn, and Keefer regardless of whether Plaintiff has filed an amended complaint; and it is further

**ORDERED** that should Plaintiff fail to submit an amended complaint within sixty (60) days from the date of this Decision and Order (or ask for another extension of time to do so), Plaintiff's Complaint (Dkt. No 1) will be **DISMISSED IN ITS ENTIRETY**, without further

action by the Court, pursuant to 28 U.S.C. § 1915 for failure to state a claim.

**IT IS SO ORDERED.**

Dated: April 8, 2019

  
Thomas J. McAvoy  
Senior, U.S. District Judge